

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN THE MATTER:

ADRIAN VAZQUEZ DIAZ

Debtor(s)

MONEY EXPRESS
Movant

CASE NO.: 08-08828 (ESL)

CHAPTER 13

(X) An action against the State
under Title 11 USC §1307 (c) (6),
Title 11 USC §1326

MOTION TO DISMISS

TO THE HONORABLE COURT:

Comes now Movant, **MONEY EXPRESS**, through its undersigning attorney, and very respectfully ALLEGES, STATES and PRAYS:

1. This Honorable Court have jurisdiction under Title 28 USC §1334, and venue under Title 28 USC §1408, and particularly regarding this matter under Title 11 USC §1307(c) (1), (4) and (6), on Conversions and Dismissals, and Title 11 USC §1326, on Payments.

2. Debtor filed the instant petition under a chapter 13 on December 23, 2008. The confirmed plan dated June 5, 2009 provides for movant to be paid through the chapter 13. *See dck no 34 and 39*

3. MOVANT, standing to address this Court is ascertained as it filed an unsecured claim to a personal loan for the outstanding debt of \$4,913.19. *See Claims Register no. 1-1*

4. As of to September 22, 2010 debtor(s) already had the following installments owed to the chapter 13 Trustee: \$2,558.00 dollars, for eight (8) months in arrears. *See Exhibit A.*

5. This evidence as well, that debtor is not in compliance with the payments under the plan after confirmation under 11 USC §1307 (c) (6) that provides... Except as provided in subsection (e), of this section, on request of a party in interest or the United States trustee and after notice and hearing, the court may convert a case under this chapter to a chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interests of the creditors and the estate, for cause, including - (6) ... material default by the debtor with respect to of the

confirmed plan; ... and none compliance with the "new" provisions under 11 USC §1326(a) (1) Unless the court orders otherwise, the debtor shall commence making ~~the payments proposed by the plan 30 days after the plan is filed;~~ payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount – (A) proposed by the plan to the trustee;

6. Under the terms of the confirmed plan dated June 5, 2009 debtor(s) should have started to make continues payments since January 23, 2009, and as evidenced herein, the debtor(s) have failed to do so.

7. Pursuant to the Service Members Civil Relief Act: - the data banks of the Department of the Defense Manpower Data Center confirmed that the debtor(s) is (are) not member(s) of the Uniformed Services (US Armed Forces, Navy, Marine Corps, Air Force, NOAA, Public Health, and Cost Guard.) **Exhibit B**

For the reasons stated above, MOVANT respectfully request from this Court to enter an order dismissing the present case pursuant Title 11 USC §1307(c) (6) on Material default by the debtor with respect to a term of a confirmed plan, and 11 USC §1326(a) (1) Unless the court orders otherwise, the debtor shall commence making ~~the payments proposed by the plan 30 days after the plan is filed;~~ payments not later than 30 days after the date of the filing of the plan or the order for relief, whichever is earlier, in the amount – (A) proposed by the plan to the trustee

NOTICE

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

Puerto Rico Local Bankruptcy Rule 9013-1(h)

In San Juan, Puerto Rico, on September 28, 2010

CERTIFICATE OF SERVICE

I hereby certify that a copy was served by CM/ECF at the authorized address: - to all creditors, - to Atty. Alejandro Oliveras//José Carrión Morales, as Chapter 13 Trustee, and - to the attorney of the debtor(s) JUAN CALDERON LITHGOW, and to debtor(s) by regular mail at the address on record, ADRIAN VAZQUEZ DIAZ, at PO BOX 2056, MOROVIS, PUERTO RICO 00687.

By: //S// María M. Benabe Rivera
MARIA M. BENABE-RIVERA, ESQ.
Attorney for Movant - US - DC 208906
MARISTELLA SANCHEZ - RODRIGUEZ - US - DC 224714
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[Rev.09/2010]

FIRSTBANK

Analysis Sheet to Determine Arrears to Trustee

In Re	:	Adrian Vázquez Díaz
Case Number	:	08-08828
Account Number	:	9413
Date of File	:	12/23/2008
Amount of Proof of Claim	:	4,913.19
Plan	:	283 x 6 (1,698.00) 325 x 54 (17,550.00)
Monthly Payment of	:	325.00
Pass term	:	21
Total paid in to plan	:	4,015.00
Should have pain in to plan	:	6,573.00
Amount in arrears	:	2,558.00 (7.87 arrears)
Printed on	:	09/22/2010
Prepared by	:	Sonia Santiago

exhib to

PRINT INQUIRY

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08-08828-ESL	ADRIAN VAZQUEZ DIAZ (xxx-xx-9756)	PO BOX 2056 • \$325.00 MO Bar Date(s): 5/7/2009 (has passed) 6/21/2009 (has passed) • MOROVIS • PR • 00687
Trustee: José R. Carrión		Confirmed: 6/19/2009
Attorney: JUAN O CALDERON LITHGOW*		Case Status: ACTIVE

Financials

Date	Payee	Payee Name	Source / Check	Description	Receipts	Disbursements
9/1/2010	19	RELIABLE FINANCIAL SERVICES	6240879	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$5.15
9/1/2010		JOSE R. CARRION	557976	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		\$0.16
4/1/2010	1	MONEY EXPRESS	6239571	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$66.14
4/1/2010	2	BANCO POPULAR DE PUERTO RICO	6239580	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$203.36
4/1/2010	8	PR ACQUISITIONS LLC	547266	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$87.52
4/1/2010	15	SANTANDER FINANCIAL D/B/A ISLAND FINANCE	547160	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$76.03
4/1/2010	17	GE MONEY BANK	6239649	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$32.91
4/1/2010	18	WESTERNBANK	548237	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$117.85
4/1/2010		JOSE R. CARRION	547991	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		\$63.07
3/2/2010			0500 00080 4498	LOCKBOX PAYMENT	\$325.00	
3/2/2010			0500 00060 4500	LOCKBOX PAYMENT	\$325.00	
1/1/2010	1	MONEY EXPRESS	6239072	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$33.07
1/1/2010	2	BANCO POPULAR DE PUERTO RICO	6239069	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$101.67
1/1/2010	8	PR ACQUISITIONS LLC	541118	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$43.76
1/1/2010	15	SANTANDER FINANCIAL D/B/A ISLAND FINANCE	541013	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$38.02
1/1/2010	17	GE MONEY BANK	6239004	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$16.45
1/1/2010	18	WESTERNBANK	542040	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$58.92
1/1/2010		JOSE R. CARRION	541818	TRUSTEE SALARY & EXPENSE -		\$31.53

				MONTHLY DISBURSEMENTS		
12/2/2009			0501 01740 0492	LOCKBOX PAYMENT	\$325.00	
12/1/2009	0	JUAN O CALDERON LITHGOW*	6238786	ATTORNEY FEE - MONTHLY DISBURSEMENTS		\$178.88
12/1/2009	1	MONEY EXPRESS	6238713	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$12.90
12/1/2009	2	BANCO POPULAR DE PUERTO RICO	6238716	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$39.67
12/1/2009	8	PR ACQUISITIONS LLC	538891	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$17.07
12/1/2009	15	SANTANDER FINANCIAL D/B/A ISLAND FINANCE	538795	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$14.83
12/1/2009	17	GE MONEY BANK	6238823	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$6.42
12/1/2009	18	WESTERNBANK	539799	CREDITOR PAYMENT (PRINCIPAL) - MONTHLY DISBURSEMENTS		\$22.99
12/1/2009		JOSE R. CARRION	539593	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		\$31.63
11/6/2009			0602 00021 4300	LOCKBOX CORRECTIONS	\$325.00	
11/2/2009	0	JUAN O CALDERON LITHGOW*	6238691	ATTORNEY FEE - MONTHLY DISBURSEMENTS		\$293.31
11/2/2009		JOSE R. CARRION	537370	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		\$31.69
10/14/2009			0602 00161 5156	LOCKBOX CORRECTIONS	\$325.00	
10/1/2009	0	JUAN O CALDERON LITHGOW*	6238492	ATTORNEY FEE - MONTHLY DISBURSEMENTS		\$293.31
10/1/2009		JOSE R. CARRION	535395	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		\$31.69
9/8/2009			0655 00701 4017	LOCKBOX PAYMENT	\$325.00	
9/1/2009	0	JUAN O CALDERON LITHGOW*	6238260	ATTORNEY FEE - MONTHLY DISBURSEMENTS		\$292.50
9/1/2009		JOSE R. CARRION	533155	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		\$32.50
8/5/2009			0652 00061 0090	LOCKBOX PAYMENT	\$325.00	
8/1/2009	0	JUAN O CALDERON LITHGOW*	6238068	ATTORNEY FEE - MONTHLY DISBURSEMENTS		\$1,566.00
8/1/2009		JOSE R. CARRION	531169	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		\$174.00
7/3/2009			0657 00641 0990	LOCKBOX PAYMENT	\$325.00	
6/9/2009			0653 00361 6453	LOCKBOX PAYMENT	\$283.00	
5/18/2009			0655 00061 0090	LOCKBOX PAYMENT	\$283.00	
4/15/2009			0503 00940 5614	LOCKBOX PAYMENT	\$283.00	
4/2/2009			0653 00081 0090	LOCKBOX PAYMENT	\$283.00	

Department of Defense Manpower Data Center

Sep-24-2010 13:55:34



Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
VAZQUEZ DIAZ	ADRIAN	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavelly-Dixon

Mary M. Snavelly-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenseink.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Snavelly-Dixon

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.
Report ID:DL9S9DLGDR